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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/000,421	10/31/2001	Eugene Khor	6565-61577/RJP	9699

7590 08/05/2004

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EXAMINER
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VARGOT, MATHIEU D

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 08/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/000,421

Applicant(s)

KHOR ET AL.

Examiner

Mathieu D. Vargot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 38 and 41-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37, 39, 40 and 47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

1. Non-elected claims 38 and 41-46 should be cancelled to expedite prosecution.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102

that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Khor et al (see col. 3, lines 10-65) generally for reasons of record as set forth in paragraph 2 of the previous action, noting the following.

Khor et al discloses the instant steps in preparing a chitin film, albeit a dried one. There is no recitation in instant claims 1 and 2 differentiating the instant film from that produced by Khor et al, and hence the claims remain properly rejected under 102.

Instant steps (b) and (c) in claim 1 are submitted to be readable on the placement of the chitin gel samples under flat glass plates, during which evaporation of the solvent is taking place. Again, applicant is referred to column 3, lines 10-65, and in particular lines 46-50 concerning the glass plate pressing.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khor et al for reasons of record as set forth in paragraph 4 of the previous action.

4. Claims 30-36 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoenfeldt et al generally for reasons of record as set forth in paragraphs 3 and 5 of the previous office action, noting the following. Applicant has amended claim 30 to recite that the polymer in one of the solutions is insoluble in one or more of the other solutions. Note at column 4, lines 7-19, the applied reference teaches how one of ordinary skill would incorporate a chitin or chitosan into an aqueous solution, by adding an acid as applicant in fact also does. Hence, it is submitted that the reference is not limited to using only hydrophilic derivatives of chitin, but also clearly encompasses the use of chitin and chitosan itself, but that these would require using an acid. It would have been obvious for one of ordinary skill in the art to use a chitin solution admixed with acid and a hydrophilic chitin derivative as the solutions to be mixed based on the disclosure at column 4, lines 7-19.

5. Claims 37, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khor et al in view of Schoenfeldt et al generally for reasons of record as set forth in paragraph 6 of the previous office action.

6. Applicant's arguments filed February 5 and May 25, 2004 have been fully considered but they are not persuasive. While applicant submits that Khor et al does not anticipate claims 1 and 2 or render claims 1-29 as obvious, such is simply not agreed with. There is no mention in claim 1 that the pressing is performed on a "chitin gel (wet)", but rather that the chitin gel is pressed to form a film and that the residual solvent is removed under press. Of course, this is exactly what Khor et al is teaching. The fact that Khor et al presses a dehydrated film and that the process does not

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produce a flexible film is not germane to the patentability of the instant claims as such is not claimed. Arguments directed to Schoenfeldt et al have been addressed in the rejection. Given the disclosure at column 4, lines 7-19, one of ordinary skill in the art would have recognized that chitin/chitosan would have been rendered soluble in aqueous media using an acid and hence claims 30 and its dependents would have been obvious over Schoenfeldt et al.

**7. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on 571 272-1196. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
August 2, 2004

  
Mathieu D. Vargot  
Primary Examiner  
Art Unit 1732

8/2/04